

SPOTTS ♦ FAIN

A PROFESSIONAL CORPORATION
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POST OFFICE BOX 1555
RICHMOND, VIRGINIA 23218

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804 697-2000
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804 697-2100

MICHAEL J. ROTHERMEL

WRITER'S DIRECT DIAL NO.
(804) 697-2078

WRITER'S E-MAIL ADDRESS
MROTHERMEL@SPOTTSFAIN.COM

September 14, 2006

(Via Hand Delivery)

Ms. Catherine Kahl
Cumberland County
Planning and Zoning Department
One Courthouse Circle
Cumberland, VA 23040

**Re: *Obscurity Land Development, LLC
Conditional Rezoning application
Request no. 06-08-2***

Dear Catherine:


Obscurity Land Development, LLC desires to amend the conditional zoning application filed on August 1, 2006 to reflect a modified zoning boundary. I have enclosed a revised Figure 2 and Figure 3, showing the modified boundary, which are to take the place of the original Figure 2 and Figure 3 attached to the August 1, 2006 application package.

Also enclosed, for your convenience, is in oversized copy of Figure 2. This modification results in slight changes to the acreages identified in the "List of Owners/Contract Purchasers and Property Information" portion of the application package. Therefore, enclosed is a revised property information sheet.

Finally, also included is a revised set of Proffers to address additional concerns raised during the public workshop process.

For your convenience, I have enclosed a complete copy of the application containing the amended provisions therein. As always, please call if you have any questions.

Sincerely,



Michael J. Rothermel

cc: Meade Spotts, Esq.
 Mr. Theodore Neura
 Mr. James Zieche



LEGEND

— REZONING BOUNDARY

— TAX MAP NUMBER

— PARCEL BOUNDARY

0 400 800
SCALE IN FEET

**BROWN AND
CALDWELL**

**FIGURE 2
PROPERTY TO BE REZONED**

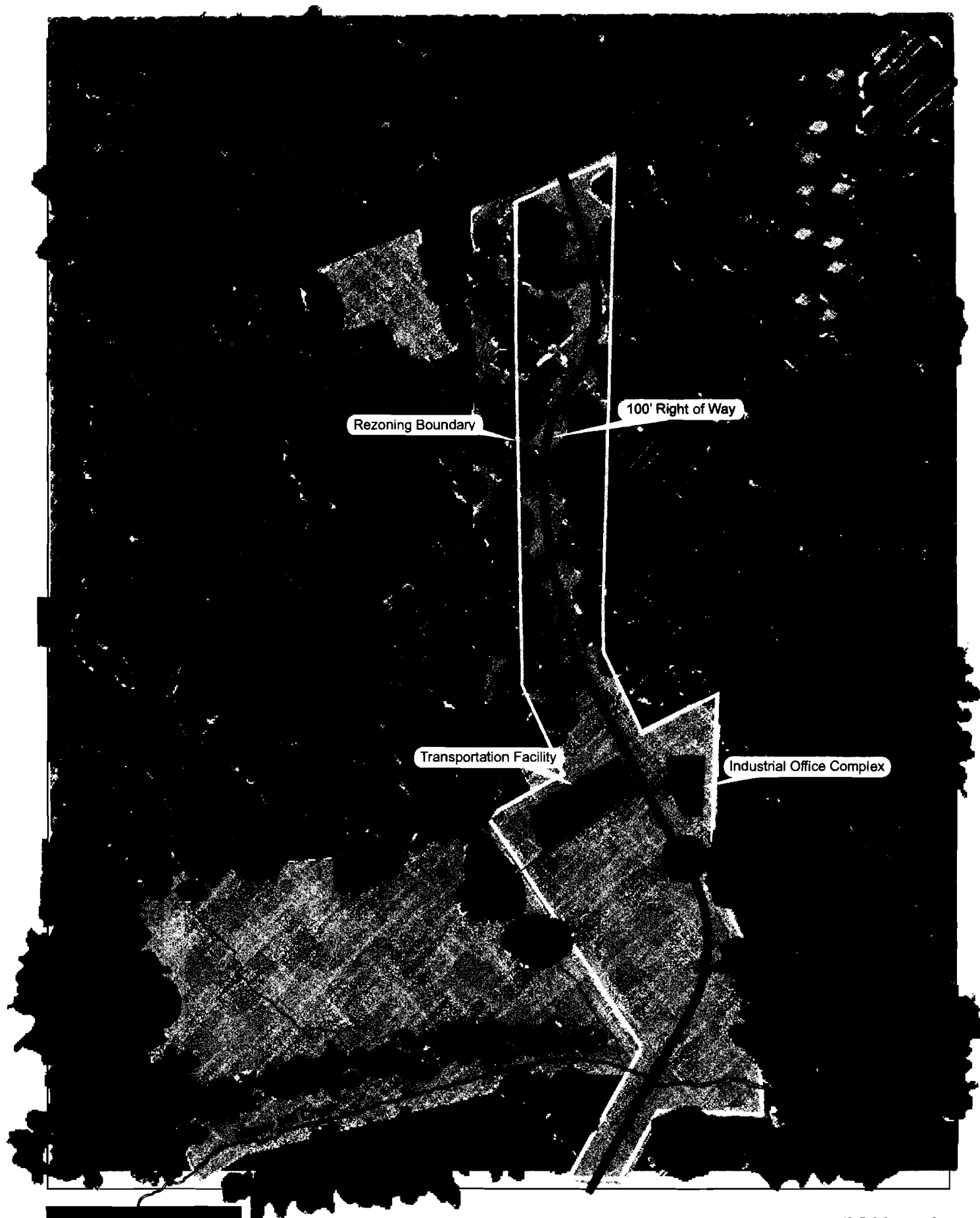


FIGURE 3
Conceptual Industrial Development Plan
Obscurity Land Development, LLC

LIST OF OWNERS/CONTRACT PURCHASERS AND PROPERTY INFORMATION

**Obscurity Land Development, LLC
2490 Charles City Road
Richmond, VA 23231**

Contract purchaser of the following parcels:

Tax map and parcel #: 51-A-14
Magisterial District: Madison
Public Road Access: none
Owner of Record: American Timberland, LLC
Deed Book 232, page 658 Date Acquired 5-18-99
Acreage of Property: 509 +/- Acreage for Rezoning: 53 +/-
Are there any deed restrictions? None restricting proposed development

Tax map and parcel #: 52-A-26
Magisterial District: Madison
Public Road Access: Route 60
Owner of Record: American Timberland, LLC
Deed Book 232, page 658 Date Acquired 5-18-99
Acreage of Property: 120 +/- Acreage for Rezoning: 44 +/-
Are there any deed restrictions? None restricting proposed development

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Owner of Record: American Timberland, LLC
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Acreage of Property: 87 +/- Acreage for Rezoning: 3 +/-
Are there any deed restrictions? None restricting proposed development

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American Timberland
260 Peachtree Street
Suite 1800
Atlanta, GA 30303

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Public Road Access: none
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PROFFERS FOR CONDITIONAL REZONING

Pursuant to Section 74-671 of the Cumberland County Zoning Ordinance, the applicant and owner(s) hereby voluntarily proffer the following conditions which shall be applicable to the property, if rezoned:

1. Use. The following principal uses shall not be permitted on the property:
 - a. Wood preserving operations;
 - b. Manufacture of cement, lime and gypsum
 - c. Manufacture of fertilizer;
 - d. Petroleum storage facility;
 - e. Asphalt mixing plant;
 - f. Boiler shops;
 - g. Meat and poultry processing;
 - h. Furniture manufacturing.
2. Buffers. A landscaped buffer area of a minimum of one hundred (100) feet in width shall be maintained along that portion of the rezoned area that immediately borders parcel 52-A-24 and parcel 52-A-25 to the east. The buffer area shall retain its existing and natural vegetation and shall be impacted only by roads, future ingress and egress needs, signage and utilities as approved by the County at the time of site plan review. In areas where the required buffer is not wooded, or such woods are sparse, the applicant shall engage in tree/vegetative planting (determined to be dense plantings, preferably evergreen) with a minimum height of six (6) feet at planting to further buffer such areas.
3. Height Limitations. The height of any buildings will not exceed thirty-five (35) feet. The height of any appurtenant structures (such as leachate collection tanks) will not exceed fifty-five (55) feet above existing ground elevation unless otherwise approved at the time of site plan review.
4. Storage Tanks. All fuels stored on the property shall be maintained in corrosive resistant, above ground storage tanks. Bulk fuels shall not be stored in buildings on the property.
5. Roads. Any permanent unpaved roads shall be covered with gravel. During dry periods, these roads will be sprayed with water, if necessary, to reduce dust problems.
6. Site Plan. Prior to the commencement of any construction or development of the property, site plans will be submitted in accordance with all applicable County ordinances.

Obscurity Land Development, LLC
Conditional Rezoning Application

TABLE OF CONTENTS

I. REZONING APPLICATION FORM (with attachments)

II. FIGURES

- A. Figure 1 – Subject Property and Existing Features**
- B. Figure 2 – Property to be Rezoned**
- C. Figure 3 – Conceptual Plan**

III. MAPS

- A. Regional Location Map**
- B. County Location Map**
- C. Adjacent Property Owner Map**
- D. Zoning Map**

County of Cumberland
Planning and Zoning
Application for Change of Zoning Classification
(Conditional Use Permit, Variance, **Rezoning**, Amendment)

Application # _____
Date Filed: _____

1. Description of Request:

Rezone from **A-2** and **R-2** to **M-2C**

Conditional Use Permit for N/A

Variance to Zoning Ordinance (explain) N/A

2. Name of Applicant: Obscurity Land Development, LLC

Address: 2490 Charles City Road
Richmond, VA 23231

Phone: 804-622-4182

Name of Owner (if different from Applicant): See attached List of Owners/Contract Purchasers and Property Information

Address: See attached List of Owners/Contract Purchasers and Property Information

Phone: See attached List of Owners/Contract Purchasers and Property Information

3. Location of Property (attach plat in 1" – 100' scale) - Due to the size of areas to be rezoned, it is impractical to attach this size plat to the application. Larger scale drawings can be provided when detailed site plans are submitted.

Tax map and parcel #: See attached List of Owners/Contract Purchasers and Property Information

Magisterial District: _____

Public Road Access: _____

Owner of Record: _____

Deed Book _____ Plat Book _____ Date Acquired _____

Acreage of Property _____ Acreage for Rezoning _____

Are there any deed restrictions? Yes _____ No _____

If "yes" attach copy of deed restriction.

Date restrictions expire: _____

4. Describe briefly the existing use and structures on the property.

The subject parcels are currently zoned A-2 (agricultural) and R-2 (residential) and are primarily used for growing and harvesting timber. Previous land uses are unknown but may have included farming. There are no structures currently located on the subject parcels.

5. Explain and describe fully the *proposed* use, improvements, development, and operation program of the property. State whether new buildings or structures are to be used or additions made to existing building structures.

This rezoning application, on behalf of Obscurity Land Development, LLC (OLD), is filed in conjunction with that Rezoning and Conditional Use Permit Application Package concurrently submitted on behalf of Cumberland County Development Company, LLC (CCDC).

The application package filed by CCDC requests a rezoning of certain property to the south from A-2 to M-2 as well as the granting of a Conditional Use Permit to allow use of that property as a solid waste landfill pursuant to Section 74-583 of the Cumberland County Code.

The current zoning of a majority of the property which is the subject of this application is A-2 (agricultural). A portion of the property along Route 60 is zoned R-2 (residential). This rezoning application seeks to rezone the subject property from A-2 (agricultural) and R-2 (residential) to M-2C (industrial with proffered conditions) for industrial uses that will not be a direct part of, but will complement, the proposed solid waste landfill to the south. The applicant seeks to rezone that portion of the property specifically shown and described in Figure 2.

An access road will be constructed to the Virginia Department of Transportation (VDOT) standards and requirements and will terminate at the end of the industrial park development with a temporary turnaround or cul-de-sac. A new intersection is planned on Route 60 approximately 8 miles northeast of the Cumberland County Courthouse.

A traffic impact study will be performed as part of this project. The scope of this study will be coordinated and approved by VDOT. It is anticipated that the study area will focus primarily on the associated impacts of the proposed intersection of Route 60 with the access road. In general, it is not anticipated that a signal will be required; however, the necessary signal warrants will be analyzed to ensure the appropriate traffic control devices are installed. It is anticipated that Route 60 improvements will include right and left turn lanes.

Final approval of the intersection location and improvements will be determined by the VDOT District Engineer during the permit review process.

The anticipated use of the property includes a truck terminal and offices. The truck terminal would likely be operated by an independent fleet management company. The office complex would serve administrative personnel and functions associated with the landfill, as well as the fleet management company. The concept plan contained in Figure 3 shows one possible layout of the property. A detailed site development and operations plan will be provided to the County and appropriate review agencies by the applicant and fleet management company for their review and approval during the Site Plan review process. A more detailed description of the proposed truck terminal and offices is provided below.

Trucking Terminal:

The proposed trucking terminal would include two primary operations, a maintenance facility and a staging yard. In general, the operations that are proposed for the maintenance facility may include, but are not limited to:

- Truck driver check-in and ancillary facilities such as bath, wash, and break rooms.**
- Maintenance facilities to perform preventative and regular maintenance on semi-tractors and trailers. This generally includes diagnosis and repair of systems on a diesel tractor.**
- Refueling tractors.**
- Raw material storage and parts storage areas.**
- Wash and rinse tractors and containers.**
- Inspect tractors and trailers for safety, permits, etc.**
- Paved parking areas and access.**
- Fencing and security system; site personnel will perform routine checks of the parking lots and building for security purposes and potential environmental impacts.**

The activities described above will be performed in compliance with all Federal, State and local requirements. The applicant and/or operator will prepare the necessary site development plans, environmental protection plans, etc. and obtain all necessary permits and approvals prior to construction, as appropriate.

Staging Yard

An expanded parking area or truck staging area will be provided adjacent to the maintenance facility to accommodate truck traffic en-route to the landfill. The proposed parking area will accommodate truck traffic arriving after landfill hours or truck traffic arriving during landfill hours but requiring queuing for proper waste load inspection, weighing, and documentation. The parking area will be graded and paved to accommodate multiple trucks. The parking area will be inspected daily.

Office Complex

The office complex will house several administrative personnel for the landfill as well as the trucking terminal and will be constructed in accordance with applicable Federal, State, and local requirements. The administrative personnel associated with the fleet management company will generally oversee the operation of the maintenance facility, as well as the administrative functions of the trucking terminal. These duties may include but are not limited to:

- Conduct terminal management functions including but not limited to hiring and supervision of a work force of several employees (i.e., drivers and maintenance personnel, etc.).**
- Manage and maintain vehicle and container maintenance programs.**
- Provide security for on-site operations.**

- 6. Describe the reason for the requested change.**

This rezoning application seeks to rezone the subject property from A-2 (agricultural) and R-2 (residential) to M-2C (industrial with proffered conditions) for industrial uses. The requested change is needed to ensure that the proposed industrial park access road and facilities are developed to support the proposed uses, as well as other future industrial uses.

Rezoning of this property will help to promote development of adjacent properties and attract other businesses and industries to the area.

- 7. State how this request will be materially detrimental to adjacent property, the surrounding neighborhood or Cumberland County in general. Explain what protections will be offered to protect neighboring properties and the surrounding area. Include, where applicable, information concerning: use of public utilities; effect of request on public schools; effect on traffic, to include means of access to nearest public road; effect on existing and future area development; and effect on economy.**

The rezoned property is to be bordered by land which will maintain its agricultural zoning classification. See Figures 2 and 3. This will help to ensure that there will remain a natural buffer surrounding any proposed industrial

uses. As such, this will help to reduce any impact on the area's rural character.

Any industrial development will utilize the same access road that will be constructed to serve the proposed landfill. This road will be constructed and maintained to VDOT standards and will have one access point. The associated entrance improvements will also meet all applicable requirements. See Figure 3 for approximate location of proposed access road. Ingress and egress to and from the Facility will be from this location only and trucks and other vehicles will access the site only from U.S. Route 60.

Development of the area for industrial uses will bring a number of economic benefits to the County and local community. As with the proposed landfill, any other industrial user will pay taxes on equipment and machinery, as well as tax on real property. These uses will also have the indirect benefit of bringing jobs to the area and increasing expenditures at local establishments.

Additionally, the submitted proffers will help to provide protection to surrounding properties by ensuring that objectionable uses, otherwise allowable in an M-2 zoning district, will not be allowed on the property.

8. Does this property already have an existing conditional use permit, special exception, or variance? If so, please provide case numbers for prior change of zoning and other pertinent information.

No. The property is zoned A-2 (agricultural) and R-2 (residential) with no use permit, special exception or variance.

9. Is the property or any portion of the property within the 100 year flood plain?

A portion of the 100-year flood plain may, upon further verification, lie within the southern area of the property, along Maxey Mill Creek, which the applicant is seeking to rezone. No buildings are proposed for the area adjacent to the creek.

10. Please provide a complete list of all property owners adjacent, across the road or highway from the property and across any railroad right-of-way, creek or river.

Property Owner	Mailing Address	Tax Map Number(s)
John Hancock Mutual Life Ins. Co.	13950 Ballantyne Cor Suite 150, Charlotte, NC 28277	51-A-13 59-A-4
Richard E. Saunders Corporation	482 Frenchs Store Road, Cumberland, VA 23040	52-A-24
KPR Properties of VA LLC	P.O. Box 35542, Richmond, VA 23235	52-A-25

Lawrence Wade Stimpson, Jr.	118 Stimpson Lane, Farmville, VA 23901	52-2-8
Edward T. Price, II	1950 Campbell Road, Keswick, VA 22947	52-2-7
Timothy M. Kennell	58 The Woods, Cumberland, VA 23040	52-2-6
Cliff T. and Halona Samuel	52 The Woods, Cumberland, VA 23040	52-2-5
Evelyn V. Holman	42 The Woods, Cumberland, VA 23040	52-2-4
Robert H. Brown	28 The Woods Pvt, Cumberland, VA 23040	52-2-3
John W. Habel, Jr. and Janet L. Habel	PO Box 94, Powhatan, VA 23139	52-2-2
John Mullenax, Sr. and Sherri E. Mullenax	357 Anderson Highway, Cumberland, VA 23040	52-2-1
Georgette Richie	P.O. Box 1039, Dillwyn, VA 23936	52-1-1
Robert Gilliam, Jr.	PO Box 316, Cumberland, VA 23040	52-A-4A
Robert Gilliam Estate	c/o Thelma Allen, 16 Connie Lane, Hampton, VA 23664	52-A-4
American Timberland, LLC	260 Peachtree Street Suite 1800, Atlanta, GA, 30303	52-A-2
Frank Trent	PO Box 144, Cumberland, VA 23040	52-A-1
Anna Louise Dowdy	47 CA Ira Road, Cumberland, VA 23040	52-A-27
Curtis Franklin and Gwendolyn D. Marion	663 Anderson Highway, Cumberland, VA 23040	52-A-28
Stephen W. Craft	466 Anderson Highway, Cumberland, VA 23040	52-A-1B
Brenda P. Jamerson	472 Anderson Highway, Cumberland, VA 23040	51-A-32B
James A. and Betty C. Armstrong	500 Anderson Highway, Cumberland, VA 23040	51-A-32
Comoria L. Johnson	518 Anderson Highway, Cumberland, VA 23040	51-A-32A
Ernest John and Karen C. Marion	PO Box 196, Cumberland, VA 23040	51-A-18
Curtis Franklin Marion	663 Anderson Highway, Cumberland, VA 23040	51-A-14A
Cumberland County Development Company, LLC	2490 Charles City Road, Richmond, VA 23231	59-A-3, 60-1-7 60-1-8
Obscurity Land Development, LLC	2490 Charles City Road, Richmond, VA 23231	60-1-10

11. Requirements and instructions for filing plans for Change of Zoning includes the following, which shall be submitted by the applicant:

- a. This application form must be filled out completely, with full answers to every statement and question. The application may be signed by an agent or attorney or by his lessee, owner, or owners before a Notary Public in the space provided on the final page.
- b. Furnish a complete plan for the requested change to the property. This plan shall consist of the following:
 1. Plot plan or survey plat showing the dimensions of the property, drawn to an appropriate scale, for which request is being made. (See Figure 2)
 2. Location and dimensions of existing structure, rights-of-way, easements, boundaries, water courses, lakes, off-street parking, loading space, landscaping, etc. (See Figure 1)
 3. Location and dimensions of proposed development, including structures, types of uses, access drives, setbacks, and easements, etc. (Figures 2 and 3)
 4. Locations and dimension of proposed recreational areas and buffer zones, if required. (See Figure 3)
 5. Location and size of water, sewer, and drainage facilities, if applicable. (Not Applicable)
 6. In the case of residential developments – proposed number of dwelling units and net acres available for building. (Not Applicable)
 7. In the case of commercial and industrial developments – proposed off-street parking and loading areas, signage, outdoor lighting and buffers and screening. (See Figure 3)
- c. The application fee required by Section 19.1 of the Zoning Ordinance is five hundred and fifty dollars (\$550.00). This fee must be paid at the time of filing the application. Make checks payable to the “County of Cumberland.”
- d. Photographs of the property, not over 8 ½ X 11 inches, are always helpful and are encouraged as exhibits with this application.

Please return the completed application, notarized statement for validity of information, supporting materials and application fee to:

Catherine Kahl, Planner/Zoning Administrator
Planning and Zoning
Cumberland County
P.O. Box 110
Cumberland, VA 23040

PROFFERS FOR CONDITIONAL REZONING

Pursuant to Section 74-671 of the Cumberland County Zoning Ordinance, the applicant and owner(s) hereby voluntarily proffer the following conditions which shall be applicable to the property, if rezoned:

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6. Site Plan. Prior to the commencement of any construction or development of the property, site plans will be submitted in accordance with all applicable County ordinances.

STATEMENT FOR VALIDITY OF INFORMATION
Conditional Rezoning Application

Every applicant shall sign the following document to substantiate the validity of submitted information.

State of Virginia
County of Richmond
City

I, James Zieche, on behalf of Obscurity Land Development, LLC, being duly sworn, depose and say that Obscurity Land Development, LLC is the owner or contract purchaser of the property involved in the application, or has otherwise received authorization from the owner or contract purchaser. Attached to this application form is a list Owners/Contract Purchasers and Property Information as well as a written certification from the owners and/or contract purchasers granting Obscurity Land Development, LLC the right to submit this application. I further declare that I have familiarized myself with the rules and regulations pertaining to preparing and filing this application and the foregoing statements and answers provided herein are in all respects true and correct to the best of my knowledge and belief.

Signed: James H. Zieche
James Zieche, Vice-President of Obscurity Land Development, LLC

Mailing Address of Applicant:

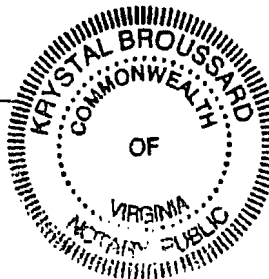
Obscurity Land Development, LLC
2490 Charles City Road
Richmond, VA 23231

804-622-4182
Phone

Subscribed and Sworn to before me on this 28th day of July, 2006
2006.

Krystal Broussard
Notary Public

My Commission Expires: 7/31/09



WRITTEN CERTIFICATION
Conditional Rezoning Application

Every applicant shall sign the following document to substantiate the validity of submitted information.

State of Georgia
City/County of Fulton

I, Jayce Nagley, on behalf of AM American Timberland, LLC, being duly sworn, depose and say that American Timberland is the owner of certain property involved in the application, has reviewed the application and hereby consents to the filing and pursuit of the application.

Signed: Jayce Nagley
Sr. Vice President of Regions Bank, Manager of American
Timberland, LLC

Mailing Address of Applicant:

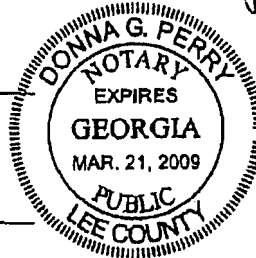
American Timberland, LLC
260 Peachtree Street
Suite 1800
Atlanta, GA 30303

404-581-3731
Phone

Subscribed and Sworn to before me on this 28th day of July,
2006.

Donna G Perry
Notary Public

My Commission Expires: 3-21-09



LIST OF OWNERS/CONTRACT PURCHASERS AND PROPERTY INFORMATION

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